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Mr. David Butler, Esq.
Hearing Officer
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: ORS's Attempt to Use Depositions as Prefiled Testimony
Docket No. 2017 – 207 – E; Docket No. 2017 – 305 – E; Docket No. 2017 – 370 – E

Dear David:

On Wednesday, we received rebuttal testimony from the Office of Regulatory Staff (“ORS”), which included a series of depositions that the ORS has submitted as purported pre-filed testimony. Deposition testimony is, of course, not pre-filed testimony submitted in accordance with the Commission’s rules, and it should not be treated as such. The ORS cannot create pre-filed testimony through depositions.

The ORS’s attempt to submit this material not only conflicts with the Commission’s rules on pre-filed testimony, it is an attempted end-run around the Hearing Officer’s October 16 directive. The directive made clear that “depositions may only be presented in the proceeding after all pre-filed witnesses have been presented, unless permission to deviate from this policy is expressly granted by the Chairman.” Indeed, the directive reiterated that exceptions to this rule would be a true “‘exception’ rather than the ‘rule.’”

The ORS has proposed to flout this directive and to disrupt the scheduling of the hearing by presenting extensive deposition testimony out of order, before SCE&G’s actual pre-filed witnesses. In fact, we understand that ORS intends to offer this deposition testimony during its case-in-chief without even presenting a live witness to the stand. SCE&G respectfully requests that the deposition testimony be presented in accordance with the October 16 directive, meaning “after all pre-filed witnesses have been presented.”

Out of respect for the Hearing Officer’s orders, SCE&G did not designate its deposition or called witnesses as part of its rebuttal testimony. In light of the impending deadline for filing Surrebuttal testimony, SCE&G would respectfully request that the Hearing Officer expedite a ruling on this matter.

Sincerely,

/s/Belton T. Zeigler
Belton T. Zeigler

cc: All parties of record (via email)